

**ALASKA STATE LEGISLATURE  
SENATE LABOR AND COMMERCE STANDING COMMITTEE**

March 12, 2021

1:29 p.m.

**MEMBERS PRESENT**

Senator Mia Costello, Chair  
Senator Joshua Revak  
Senator Gary Stevens  
Senator Elvi Gray-Jackson

**MEMBERS ABSENT**

Senator Roger Holland, Vice Chair

**COMMITTEE CALENDAR**

**SENATE BILL NO. 9**

"An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, and retailers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to common carrier approval to transport or deliver alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; amending Rule 17(h), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

- MOVED SB 9 OUT OF COMMITTEE

**SENATE BILL NO. 88**

"An Act relating to the state insurance catastrophe reserve account; and providing for an effective date."

- HEARD AND HELD

**SENATE BILL NO. 11**

"An Act relating to community property and to community property trusts; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 9

SHORT TITLE: ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

SPONSOR(s): SENATOR(s) MICCICHE

01/22/21	(S)	PREFILE RELEASED 1/8/21
01/22/21	(S)	READ THE FIRST TIME - REFERRALS
01/22/21	(S)	L&C, JUD, FIN
02/12/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/12/21	(S)	Heard & Held
02/12/21	(S)	MINUTE(L&C)
03/03/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/03/21	(S)	Scheduled but Not Heard
03/10/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/10/21	(S)	-- MEETING CANCELED --
03/12/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 88

SHORT TITLE: STATE INSUR. CATASTROPHE RESERVE ACCT.

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/22/21	(S)	READ THE FIRST TIME - REFERRALS
02/22/21	(S)	L&C, FIN
03/10/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/10/21	(S)	-- MEETING CANCELED --
03/12/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 11

SHORT TITLE: COMMUNITY PROPERTY TRUSTS

SPONSOR(s): BEGICH

01/22/21	(S)	PREFILE RELEASED 1/8/21
01/22/21	(S)	READ THE FIRST TIME - REFERRALS
01/22/21	(S)	L&C, JUD
03/10/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/10/21	(S)	-- MEETING CANCELED --
03/12/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

#### **WITNESS REGISTER**

SENATOR PETER MICCICHE  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 9.

LEE ELLIS, President  
Brewers Guide of Alaska;  
President, Midnight Sun Brewing Company

Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 9.

ROBIN MINARD

MatSu Health Foundation

Wasilla, Alaska

**POSITION STATEMENT:** Testified in strong support of SB 9.

EVAN WOOD, Co-owner and Co-founder

Devils Club Brewery

Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 9.

SARAH OATS, President

Alaska Cabaret Hotel Restaurant and Retailers Association

Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 9.

TIFFANY HALL, Executive Director

Recover Alaska

Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 9.

JEANNE REILLY

Reilly's Irish Pub

Anchorage, Alaska

**POSITION STATEMENT:** Testified in full support of SB 9.

SCOTT JORDAN, Director

Division of Risk Management

Department of Administration (DOA)

Juneau, Alaska

**POSITION STATEMENT:** Presented SB 88 on behalf of the administration.

SENATOR TOM BEGICH (via Teams)

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 11

BRIX HAHN, Staff

Senator Tom Begich

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Presented the sponsor statement and sectional analysis for SB 11 on behalf of the sponsor.

DAVE SHAFTEL, representing self  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 11.

MATHEW BLATTMACHR  
Peak Trust Company  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 11.

## **ACTION NARRATIVE**

[1:29:47 PM](#)

**CHAIR MIA COSTELLO** called the Senate Labor and Commerce Standing Committee meeting to order at 1:29 p.m. Present at the call to order were Senators Gray-Jackson, Revak, Stevens, and Chair Costello.

CHAIR COSTELLO reviewed the agenda.

### **SB 9-ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG**

[1:30:26 PM](#)

CHAIR COSTELLO announced the consideration of SENATE BILL NO. 9, "An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, and retailers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to common carrier approval to transport or deliver alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; amending Rule 17(h), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

[1:31:12 PM](#)

SENATOR PETER MICCICHE, sponsor of SB 9, Alaska State Legislature, Juneau, Alaska, summarized that the goal of the legislation is to modernize the Title 4 alcohol statutes with changes that improve the processes for public safety, public health, and the industry.

[1:32:12 PM](#)

CHAIR COSTELLO opened public testimony on SB 9.

[1:32:24 PM](#)

LEE ELLIS, President, Brewers Guide of Alaska; President, Midnight Sun Brewing Company, Anchorage, Alaska, stated that it

has taken nine years of hard work to come to consensus on what the modern alcohol laws should look like. SB 9 is the best work of 120 different stakeholders from public health, law enforcement, and the wholesalers, retailers, and manufacturers in the alcohol industry. He said modernization is critical for the industry, as is streamlining licensing, and enhancing the privileges of craft breweries. He encouraged the committee to move the bill.

1:34:17 PM

ROBIN MINARD, MatSu Health Foundation, Wasilla, Alaska, stated that the foundation supports SB 9 because it represents a multiyear, multi-stakeholder partnership with the alcohol industry to promote the responsible use of alcohol by adults, reduce underage consumption, support better enforcement of Alaska's alcohol laws, and have a healthy industry. She thanked the committee and asked that they move the bill forward because it has health benefits for all Alaskans.

1:36:00 PM

EVAN WOOD, Co-owner and Co-founder, Devils Club Brewery, Juneau, Alaska, agreed with previous testimony that it has been a long journey to arrive at SB 9. He said it is a rare opportunity to have all the stakeholders on the same page in support of the legislation in its current form. The past year has been onerous and he believes that passing the bill in an expedited manner would be alleviating for the industry.

1:37:32 PM

SARAH OATS, President, Alaska Cabaret Hotel Restaurant and Retailers Association (CHARR), Anchorage, Alaska, stated that Alaska CHARR is the state's trade association that represents many of the 2000 liquor licenses statewide. She said that after many years, stakeholders reached consensus on a thoughtful draft of alcohol regulatory reform. There was agreement among public health, public safety, state and municipal regulatory bodies, and the three industry tiers. SB 9 captures that consensus.

MS. OATS said Alaska CHARR fully supports SB 9 and urges the committee to pass the legislation, which will provide long-term regulatory certainty. She described the impact the pandemic has had on the industry and emphasized that SB 9 provides the opportunity to move forward with a better regulatory system and for Alaska's second largest industry to thrive. The changes include the penalty modifications for violations to ensure fair and consistent enforcement of alcohol laws; expedited application processes; and statutes that make it easy for

industry members to understand their legal privileges, restrictions, and expectations.

[1:40:34 PM](#)

TIFFANY HALL, Recover Alaska, Anchorage, Alaska, stated that for many years Recover Alaska has worked hand in hand with other public health and safety proponents, all levels of the alcohol industry, as well as local, municipal and community leaders.

She cited data to show that Alaska struggles with many problems associated with alcohol. Alaskans die at rates three times the national average and alcohol costs the state \$2.4 billion, 709 million of which is lost productivity. Other costs include health care, criminal justice, traffic collisions, and social services.

MS. HALL said Recover Alaska supports SB 9 for its positive health and safety provisions that are largely evidenced-based practices. These practices will work to reduce underage drinking, increase public safety by reducing alcohol related violence and crime, and will reduce alcohol related deaths. Further, the bill will provide clarity and education for the Alcohol and Marijuana Control Office and licensees, which will make it easier for everyone to follow and enforce Title 4 laws. She said all stakeholders can agree on this bill.

[1:42:46 PM](#)

JEANNE REILLY, Reilly's Irish Pub, Anchorage, Alaska, stated that the industry has come together with the Brewers Guild and the beverage dispensary licensees in a fantastic compromise after many years of debate. She voiced support and hope that the bill would move forward.

[1:43:50 PM](#)

CHAIR COSTELLO closed public testimony on SB 9 after discerning that nobody else wished to comment.

SENATOR STEVENS asked the sponsor to remind the committee what SB 9 does to control substance abuse.

SENATOR MICCICHE answered that the bill will help by clarifying the way licensees operate and by providing funding for additional enforcement. Under current law, many infractions that are misdemeanors are neither enforced nor prosecuted. SB 9 changes those infractions to violations with an associated fine. The penalty is immediate and does not require extensive court time. The bill also links the license holder to the violation

when a server overserves somebody or serves a minor. Along with this, there is funding for education so licensees know how to comply with the rules. He noted that part of the education outreach includes the new marijuana rules.

CHAIR COSTELLO found no further questions and solicited a motion.

[1:46:42 PM](#)

SENATOR REVAK moved to report SB 9, work order 32-LS0124\B, from committee with individual recommendations and attached fiscal note(s).

[1:46:54 PM](#)

CHAIR COSTELLO found no objection and SB 9 passed from the Senate Labor and Commerce Standing Committee.

[1:47:04 PM](#)

At ease

[1:48:57 PM](#)

CHAIR COSTELLO reconvened the meeting and invited the sponsor to make closing remarks.

SENATOR MICCICHE said many people worked on this bill and significantly improved it in the process. He thanked the committee for moving the bill and for the help in past years to improve the bill.

**SB 88-STATE INSUR. CATASTROPHE RESERVE ACCT.**

[1:49:53 PM](#)

CHAIR COSTELLO announced the consideration of SENATE BILL NO. 88, "An Act relating to the state insurance catastrophe reserve account; and providing for an effective date."

She listed the individuals available to answer questions and stated the intent is to hear the introduction and hold the bill.

[1:50:38 PM](#)

At ease

[1:52:26 PM](#)

CHAIR COSTELLO reconvened the meeting and asked Mr. Jordan to present SB 88.

[1:52:43 PM](#)

SCOTT JORDAN, Director, Division of Risk Management, Department of Administration (DOA), Juneau, Alaska, delivered a PowerPoint to present SB 88. He displayed highlighted portions of Sec. 37.05.289, the Catastrophe Reserve Account (CATFund) that was enacted in FY88. The key points are that the fund was established to cover unanticipated costs related to the state's self-insurance program; the fund has a \$5 million cap; and no more than \$5 million may be retained in the fund.

MR. JORDAN turned to the list of expenditures from the CATFund since its inception. Over the last 33 years, the state has spent approximately \$149 million from the fund, or about \$4.5 million per year. He noted that the chart has several columns but he was focusing on the column showing Total Expended on the far right.

He turned to the chart and line graph of the 10-year history of property premiums and/or losses from FY10-FY20. The Property Premiums column, highlighted in blue, reflects a little more than \$2 million paid in FY 10 and \$5.1 million in FY 20. He referred to the line graph on the right. It shows a sharp increase from FY 11 to FY 12 and another market driven increase in FY 18 and FY 19. He explained that the hardening reflects a lack of capacity in the global market to pay catastrophic claims and this causes premiums to rise.

MR. JORDAN directed attention to the Property Losses column highlighted in orange. It reflects about \$13 million in property losses that the CATFund paid over the same 10-year period. The line graph is relatively flat except for the \$4 million loss due to the fire at the Crystal Lake Hatchery in March 2014. The subsequent spike in FY 20 was due to \$1.26 million paid in claims from the November 30, 2018 earthquake in Anchorage and the \$1 million payment when a DOTPF maintenance shop in McGrath collapsed from snow load.

1:56:44 PM

MR. JORDAN turned to the charts on slide 4 and explained that he included them to show all the expenses that go along with the premiums the state pays for excess insurance. The top chart reflects \$39 million in property premiums from FY 10 to FY 20. The lower chart reflects a little over \$80 million paid for aviation, marine, property, and bonds. He noted that property premiums are about half of overall premium payments each year.

MR. JODAN turned to slide 5 that lists the larger claims paid out of the Catastrophic Reserve Account. These were:



- AMJS LeConte Grounding May 2004 \$1.187 million
- F&G Crystal Lake Hatchery fire March 2014 \$4.078 million
- Alaska Aerospace Kodiak Launch Facility rocket explosion August 2014 \$1.513 million
- PFAS claims starting in November 2017 \$5.877 million
- Earthquake related claims November 2018 \$1.263 million

1:58:12 PM

SENATOR STEVENS asked if he agreed that other insurance paid much more than the state's \$1.5 million payment for the rocket explosion at the Kodiak launch facility.

MR. JORDAN agreed. He said the claim was about \$34 million; the state's insurer paid about \$17 million and the launch customer paid the other \$17 million.

SENATOR STEVENS expressed appreciation for the explanation.

1:59:00 PM

MR. JORDAN turned to the Lapse Appropriations Summary on slide 6 that shows the funding for the Catastrophic Reserve Account. He explained that any money that Risk Management has left at the end of a fiscal year is swept into the CATFund. If that doesn't fill the fund to the \$5 million cap, they look to the UGF lapse appropriation funds.

He restated that the purpose of SB 88 is to allow the state to be self-insured for property coverage. The state already has a good record of self-insuring for workers' compensation and general liability and wants to add property coverage because premiums increased 30 percent for FY 21 and the expectation is that they will increase another 15 percent to 20 percent for FY 22. The \$5.1 premium in FY 20 will be about \$7.6 million in FY 22. Increasing the \$5 million unencumbered cap on the CATFund to \$50 million unencumbered cap will allow the state to equal the \$50 million limit it can buy for catastrophic coverage from the market. He described it as a safety net that will save the additional \$2.5 million the state currently pays for insurance and allow better control over claims.

CHAIR COSTELLO said a sectional is not necessary.

2:02:24 PM

SENATOR REVAK asked how the division decided on the \$50 million cap.

MR. JORDAN said the market currently limits catastrophic coverage to \$50 million. The idea is for the state to step away from the property market completely and self-insure.

CHAIR COSTELLO asked the reason that he mentioned coverage for earthquakes and floods but not fires.

MR. JORDAN replied this would incorporate fire loss for state buildings but the state historically has not had large fire losses. The fund has been able to handle all the losses so far except for earthquake and flood. The concern is a catastrophic loss.

2:05:01 PM

SENATOR STEVENS asked if the fund covers state-owned buildings like the Capitol.

MR. JORDAN answered yes; the fund covers all state-owned property assets.

CHAIR COSTELLO asked what other states have for insurance caps.

MR. JORDAN replied it varies by state and runs the gamut but because of the tremendous market increase, the trend is for states to have self-insured programs.

CHAIR COSTELLO asked if the Division of Risk Management in Department of Administration (DOA) interacts with the Division of Insurance in the Department of Commerce, Community and Economic Development (DCCED).

MR. JORDAN answered that he speaks with Director Wing-Heier occasionally, but because the Catastrophic Reserve Account (CATFund) is a self-insured program, there isn't a lot of interaction.

2:07:27 PM

CHAIR COSTELLO referred to the language on page 1, lines 7-8 that talks about "an amount that the commissioner of administration determines to be necessary". She asked if that would be a formal communication so the legislature is aware of the amount or if it would show up on a ledger.

MR. JORDAN replied the amount that the commissioner determines is necessary comes from what the Division of Risk Management says is needed to bring the CATFund up to the \$5 million cap.

[2:08:28 PM](#)

CHAIR COSTELLO found no further questions and advised that she would hold SB 88 for further consideration.

[2:08:58 PM](#)

At ease

### **SB 11-COMMUNITY PROPERTY TRUSTS**

[2:10:31 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SENATE BILL NO. 11, "An Act relating to community property and to community property trusts; and providing for an effective date."

[2:11:01 PM](#)

SENATOR TOM BEGICH, Alaska State Legislature, Juneau, Alaska, Sponsor of SB 11, (via Teams), stated that SB 11 is similar to Senate Bill 91 that former Senator John Coghill introduced in the last legislature. He agreed to reintroduce the legislation when he realized that it clarifies the meaning of "increment appreciation" as intended by legislation passed in 1997. That was House Bill 199 and the sponsor was Representative Joe Ryan. He quoted testimony from 1997 that described the basis of the value of an asset when a partner dies.

Any appreciation of that on behalf of the estate of the person who died has no tax liability.

He emphasized that the original legislation recognized appreciation in the valuation of assets in an estate and SB 11 clarifies that and corrects the ambiguous interpretation of the original law.

[2:14:38 PM](#)

At ease

[2:15:16 PM](#)

CHAIR COSTELLO reconvened the meeting and asked Ms. Hahn to continue her testimony.

[2:15:22 PM](#)

BRIX HAHN, Staff, Senator Tom Begich, sponsor of SB 11, Alaska State Legislature, Juneau, Alaska, read the following sponsor statement for SB 11 into the record: [Original punctuation provided.]

Alaska is a state with favorable trust laws, and beneficial laws for community property ownership between spouses. The state allows for "opt in" community property ownership between married couples. Community property ownership can provide tremendous tax advantages to these couples. In Alaska, residents and nonresidents alike can enter into Alaska community property trust agreements. These agreements benefit the individuals entering them, the trust industry of Alaska, banks that hold associated deposits, and through revenues generated by the formation of a new trust, the state.

Community property is simply a way to own joint property. A common way to enter into a community property agreement is with your spouse. Each party must elect into this agreement and the agreement provides, most commonly, equal ownership and management of specific property.

Currently, community property has a significant tax advantage. When your spouse dies, community property is placed into a tax category that allows for tax advantages when the property in question is sold. To realize these advantages, appreciation and income in a trust must be characterized as community property.

The default rule has been that appreciation and income on community property will be characterized as community property, unless specifically declared in a community property trust. Trust attorneys have attested to this interpretation, but recent court rulings have created an ambiguous understanding of this general norm. This legislation is consistent with industry understandings of trusts and seeks to clearly define community property to include appreciation and income on community property.

Senate Bill 11 establishes a clear definition of appreciation and income on community property, as intended by original drafters and The Community

Property Trust Act. This bill also has a retroactive effective date of May 23, 1998.

[2:17:45 PM](#)

MS. HAHN presented the sectional analysis for SB 11.

*Section 1.*

Clarifies AS 34.77.030(h), by affirming legal intent to ensure appreciation and income in community property trusts are in fact community property unless expressly otherwise stated in legal trust documents.

*Section 2.*

Provides that AS 34.77.030(h) is retroactive to community property trust agreements entered into after May 23, 1998 and defines "community property trust" consistent with statute.

*Section 3.*

Adds as a new uncodified law of the State of Alaska, a savings clause and asserts that Sec. 2 of this act does not impact court actions or proceedings that began before the effective date, or a community property rights accrued before the effective date.

*Section 4.*

Adds as a new uncodified law of the State of Alaska retroactivity to AS 34.77.030(h).

*Section 5.*

Establishes retroactivity through May 23, 1998.

[2:18:43 PM](#)

At ease

[2:19:15 PM](#)

CHAIR COSTELLO reconvened the meeting and moved to invited testimony

[2:19:33 PM](#)

DAVE SHAFTEL, representing self, Anchorage, Alaska, stated that SB 11 corrects a long-standing problem in the statutes that has become a trap for the unwary when drafting community property trusts. He reminded the members that the tax purpose is that when one spouse dies, both halves of the community property basis step up to the fair market value. He said this unusual

rule applies only to community property states and it keys on appreciation of the property being the default rule.

[2:23:17 PM](#)

MR. SHAFTEL said unfortunately the 1998 act was drafted to create the opposite default rule and appreciation is not included as part of the community property. Over the last 20 years, many attorneys have said in the trust document that appreciation is part of the community property, but some have been unaware and appreciation is not included as part of the community property. He characterized SB 11 as a correction of a drafting error to make appreciation part of Alaska's Community Property Act.

[2:25:40 PM](#)

SENATOR STEVENS asked if this includes investments held as community property.

MR. SHAFTEL answered yes; it includes any type of property held as community property.

SENATOR STEVENS commented that it appears that the bill would be advantageous to all people, not just the wealthy.

MR. SHAFTEL replied it is important to anyone who wants to own property jointly and take advantage of reducing income tax for the surviving spouse.

CHAIR COSTELLO asked if the bill would increase the estate tax liability.

MR. SHAFTEL answered no.

[2:28:08 PM](#)

MATHEW BLATTMACHR, Peak Trust Company, Anchorage, Alaska, stated agreement with the previous testimony. He said this is a widely used financial planning technique for Alaskans. The original intent of the Community Property Act was to include appreciation and income and SB 11 clarifies that original intent. He encouraged the committee to support the bill.

CHAIR COSTELLO noted who was available to answer questions. Finding no questions, she thanked the sponsor.

[2:29:39 PM](#)

CHAIR COSTELLO held SB 11 for future consideration.

2:30:45 PM

There being no further business to come before the committee, Senator Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 2:30 p.m.